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12 Plaintiff in *Pro Per*

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

16 EDWARD “COACH” WEINHAUS,

17 Plaintiff,

18 v.

19 REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

20 Defendant.
21

Case No. 2:25-cv-00262 JFW (ASx)

**JOINT STATEMENT OF LOCAL
RULE 7-3 CONFERENCE**

Judge: John F. Walter
Mag. Judge: Alka Sagar
Crtrm.: 7A
Trial Date: 9/15/26 8:30 AM

22
23 Plaintiff Edward “Coach” Weinhaus (“Plaintiff”) and Defendant The Regents
24 of the University of California (“Defendant”) (collectively, the “Parties”) hereby
25 submit this Joint Statement of Conference regarding Plaintiff’s Motion Pursuant to
26 Fed. R. Civ. Proc. 12(d) in compliance with Local Rule 7-3 and Paragraph 5(b) of
27 this Court’s Standing Order:

28 1. Counsel for the Parties initially met and conferred regarding

1 Defendant's intent to move to convert Defendant's Motion to Dismiss the First
2 Amended Complaint to a Motion pursuant to FRCP 12(d) on March 6, 2025 when
3 discussing Defendant's Motion to Dismiss the Original Complaint. After meeting
4 and conferring, Plaintiff agreed to file an amended Complaint, which he did on May
5 1, 2025.

6 2. Counsel for the Parties met and conferred regarding Defendant's intent
7 to move to dismiss Plaintiff's First Amended Complaint on May 9, 2025. Counsel
8 for Defendant is located in the Southern District of California, and Plaintiff is based
9 out of Missouri (at the time of this conference, Plaintiff was in England).
10 Accordingly, the Parties met and conferred via teleconference, which lasted
11 approximately an hour. The Parties discussed Plaintiff's position that Defendant's
12 use of documents it intended to incorporate by reference, if allowed by the Court,
13 would convert the Motion to Dismiss (FRCP 12(b)(6)) into a matter for Summary
14 Judgment (FRCP 12(d)). The Parties reflected this discussion in our Rule 7.3 filing
15 on May 12, 2025. ECF # 26 (pgs. 3-4).

16 3. The Parties then fully briefed the Motion to Dismiss and addressed the
17 issue of converting the motion. ECF #33-1 (Memorandum pg. 5-7, 15-16 fn. 4, 5),
18 ECF # 37 (Plaintiff's Opposition pgs. 6, 8, 20, fn. 4), ECF # 44 (Defendant's Reply
19 pgs. 10-11).

20 4. Plaintiff emailed Defendant's Counsel immediately upon receiving the
21 Reply Brief on June 2, 2025 requesting the conference.

22 5. During the teleconference on June 5, 2025, the Parties discussed the
23 following positions:

24 i. Plaintiff's Position: The Federal Rule of Civil Procedure
25 12(d) states as follows:

26 (d) Result of Presenting Matters Outside the Pleadings. If, on a motion under
27 Rule 12(b)(6) or 12(c), matters outside the pleadings are presented to and not
28 excluded by the court, the motion must be treated as one for summary

1 judgment under Rule 56. All parties must be given a reasonable opportunity
2 to present all the material that is pertinent to the motion.
3 Defendant's use documents incorporated by reference – not for their existence – but
4 for the factual claims the documents purport to make inside. This presents a factual
5 matter to the Court under Rule 56, not 12(b)(6). Plaintiff understands Defendant's
6 position that they can rely on factual matters attested to in letters/documents by
7 third-parties who are not witnesses to contest factual assertions in the First Amended
8 Complaint so long as those letters/documents were mentioned in the Complaint.
9 Further, they can use their characterizations of those letters/documents to serve as
10 rebuttals to assertions in the First Amended Complaint under FRCP 12(b)(6).

11 As for a Proposed Order related to the Motion to Dismiss, Counsel emailed
12 the Court clerk about this impending motion and how it relates to the Proposed
13 Order while the parties were preparing to produce this Conference report.

14 ii. Defendant's Position:

15 Rule 12(d) is not implicated by Defendant's motion to dismiss, because courts
16 may properly consider documents incorporated into a complaint by reference on a
17 Rule 12(b)(6) motion. *See Webb v. Trader Joe's Co.*, 999 F.3d 1196, 1201 (9th Cir.
18 2021). Specifically, "[d]ocuments that a defendant attaches to a motion to dismiss
19 are considered part of the pleadings if they are referred to in the plaintiff's complaint
20 and are central to [his] claim." *Venture Associates Corp. v. Zenith Data Sys. Corp.*,
21 987 F.2d 429 (7th Cir. 1983).

22 Plaintiff incorporates by reference each document attached to the Burris
23 Declaration. He refers to Exhibit A (ECF No. 34.1) 14 times in the FAC, (*see* FAC
24 ¶¶ 29, 32, 33, 34, 35, 98, 131, 133, 135, 145, 148, 167 n.3, 173, 203), and admits
25 that the "negative employment action against Plaintiff were primarily based on" this
26 document (FAC ¶ 29.) Similarly, he discusses Exhibit B (ECF No. 34.2) for almost
27 two full pages, (*see* FAC ¶ 148(a)-(m)), and states the letter was created to "achieve
28 [The Regents'] desired result" (FAC ¶ 145). Finally, Exhibit C (ECF No. 34.3) is

1 incorporated by reference because Plaintiff also references it repeatedly, and
2 because he states that the “list of obvious and self-rebutting claims from [Exhibit C]
3 is too long to analyze, but is evidence from the record of information he reviewed
4 and received.” (FAC ¶¶ 173, 174.)

5 Accordingly, because these documents are referred to – extensively – in the
6 FAC, and because they are central to his claims, Defendant is entitled to attach them
7 to its motion to dismiss and have them be considered part of the FAC.

8 Defendant does not agree that either this Rule 7-3 Joint Statement or
9 Plaintiff’s forthcoming Rule 12(d) motion, if filed, satisfy Paragraph 5(f) of this
10 Court’s Standing Order. [ECF No. 9]

11 6. The Parties were unable to resolve their differences as to the proposed
12 relief Plaintiff requests.

13
14 Dated: June 9, 2025

QUARLES & BRADY LLP

15
16 By: /s/Kelly M. Butler/s/
17 SANDRA L. McDONOUGH
18 MATTHEW W. BURRIS
19 KELLY M. BUTLER
20 Attorneys for THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA

21 Dated: June 9, 2025

22
23 By: /s/Edward “Coach” Weinhaus/s/
24 EDWARD “COACH” WEINHAUS
25 Plaintiff in *Pro Per*
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